

107TH CONGRESS
1ST SESSION

H. R. 2974

To provide for the protection of paleontological resources on Federal lands, to promote the systematic compilation of baseline paleontological resource data, science-based decisionmaking, and accurate public education, to provide for a unified management policy regarding paleontological resources on Federal lands, to promote legitimate public access to fossil resources on Federal lands, to encourage informed stewardship of the resources through educational, recreational, and scientific use of the paleontological resources on Federal lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2001

Mr. McGOVERN (for himself, Mr. SOUDER, Mr. TIAHRT, Mr. COYNE, Mrs. TAUSCHER, and Mr. GEORGE MILLER of California) introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for the protection of paleontological resources on Federal lands, to promote the systematic compilation of baseline paleontological resource data, science-based decisionmaking, and accurate public education, to provide for a unified management policy regarding paleontological resources on Federal lands, to promote legitimate public access to fossil resources on Federal lands, to encourage informed stewardship of the resources through educational, recreational, and scientific use of the paleontological resources on Federal lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Paleontological Re-
5 sources Preservation Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Federal lands are a valuable resource of the
9 people of the United States.

10 (2) Each individual who uses Federal lands—
11 (A) is exercising both a right and a privi-
12 lege; and

13 (B) must accept the responsibility of care-
14 ful stewardship of the land and its resources so
15 that the privilege can be exercised by future
16 generations.

17 (3) Paleontological resources are nonrenewable.
18 Such resources on Federal lands are an accessible
19 and irreplaceable part of the heritage of the United
20 States and offer significant educational opportunities
21 to all citizens.

22 (4) Current Federal laws, statutes, and other
23 provisions that regulate access to paleontological re-
24 sources are not articulated in a single omnibus pol-

1 icy for Federal land management agencies and the
2 public.

3 (5) A unified national policy is needed to im-
4 prove scientific understanding and Federal manage-
5 ment of ancient ecosystems, to promote responsible
6 stewardship, and to facilitate the enhancement of re-
7 sponsible paleontological collecting activities on Fed-
8 eral lands.

9 (6) A mechanism to encourage cooperation and
10 to exchange information among Federal agencies,
11 paleontologists, and the public should be adopted.

12 (7) Increased awareness and enjoyment of pale-
13 ontological resources by children and young adults
14 should be fostered.

15 (8) Consistent with the statutory provisions ap-
16 plicable to each Federal land management system,
17 reasonable access to paleontological resources on
18 Federal lands should be provided for scientific, edu-
19 cational, and recreational purposes.

20 (9) Fossil collecting activities by the public, in-
21 cluding amateur paleontologists and volunteers, have
22 contributed a wealth of information to the science of
23 paleontology. Such collecting should be encouraged
24 and facilitated, where appropriate.

(10) Some paleontological resources, including all vertebrate fossils, are rare and should only be collected under a permit.

10 (12) Release of information on the location of
11 fossils collected under permit can result in irrepar-
12 able harm to the resource and therefore should be
13 limited to purposes that ensure resource protection.

14 SEC. 3. PURPOSES.

15 The purposes of this Act are as follows:

(A) consistent with the protection of scientifically and educationally significant or rare paleontological resources;

23 (B) consistent with the specific mandate of
24 each Federal agency; and

(C) without diminishing the rights of those who develop minerals under the general mining laws, or mineral leasing, geothermal leasing, and mineral materials disposal laws.

7 SEC. 4. DEFINITIONS.

8 As used in this Act:

1 which are either held in trust by the United States
2 or subject to a restriction against alienation imposed
3 by the United States.

4 (5) PERSON.—The term “person” includes an
5 individual, corporation, partnership, trust, institu-
6 tion, association, any other private entity, an officer,
7 employee, agent, department, or instrumentality of
8 the United States, an Indian tribe, and a State or
9 political subdivision of a State.

10 (6) STATE.—The term “State” means the sev-
11 eral States, the District of Columbia, the Common-
12 wealth of Puerto Rico, the Commonwealth of the
13 Northern Mariana Islands, the United States Virgin
14 Islands, Guam, American Samoa, and any other ter-
15 ritory or possession of the United States.

16 (7) PALEONTOLOGICAL RESOURCE.—(A) The
17 term “paleontological resource” means any remains,
18 traces, or imprints of organisms, preserved in or on
19 the Earth’s crust, which are of paleontological inter-
20 est.

21 (B) The term “paleontological resource” does
22 not include any materials associated with an archeo-
23 logical resource (as defined in section 3(1) of the Ar-
24 chaeological Resources Protection Act of 1979 (16
25 U.S.C. 470bb(1)).

1 **SEC. 5. MANAGEMENT.**

2 Federal land managers shall manage and protect pa-
3 leontological resources on Federal land using scientific
4 principles and expertise, develop appropriate plans for in-
5 ventory, monitoring, and the scientific and educational use
6 of paleontological resources, in accordance with agency
7 missions. These plans shall emphasize interagency coordi-
8 nation and collaborative efforts where possible with non-
9 Federal partners, the scientific community, and the gen-
10 eral public.

11 **SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.**

12 Each Federal land manager responsible for paleon-
13 tological resources shall establish a program to increase
14 public awareness about the significance of paleontological
15 resources and the need to preserve and provide access to
16 those resources.

17 **SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.**

18 (a) **PERMIT REQUIREMENT.**—

19 (1) **IN GENERAL.**—Except as provided in this
20 subsection, a person may not collect a paleontolog-
21 ical resource from Federal land without a permit
22 issued under this Act by the responsible Federal
23 land manager.

24 (2) **CASUAL COLLECTING EXCEPTION.**—The
25 Secretary, the Director, or any other Federal land
26 manager, with the exception of a Federal land man-

1 ager of land under the jurisdiction of the National
2 Park Service, may allow casual collecting of abun-
3 dant invertebrate and plant paleontological re-
4 sources, for scientific, educational, and recreational
5 uses, without a permit, where such collection is not
6 inconsistent with the laws governing the manage-
7 ment of those Federal lands and this Act. A deter-
8 mination by the Secretary, the Director, or a Fed-
9 eral land manager regarding whether an action con-
10 stitutes casual collecting shall be final.

18 (b) CRITERIA FOR ISSUANCE OF A PERMIT.—A per-
19 mit for the collection of a paleontological resource may be
20 issued pursuant to an application if the Federal land man-
21 ager determines that—

22 (1) the applicant is qualified to carry out the
23 permitted activity;

7 (4) the proposed methods of collecting will not
8 threaten significant natural or cultural resources.

9 (c) PERMIT SPECIFICATIONS.—A permit for the col-
10 lection of a paleontological resource issued under this sec-
11 tion shall contain such terms and conditions, pursuant to
12 regulations promulgated under this Act, as the Federal
13 land manager deems necessary to carry out the purposes
14 of this Act. Every permit shall include requirements
15 that—

16 (1) the paleontological resource that is collected
17 from Federal lands under the permit will remain the
18 property of the United States;

23 (3) specific locality data will not be released by
24 the permittee or repository without the written per-
25 mission of the Federal land manager.

1 (d) MODIFICATION, SUSPENSION, AND REVOCATION
2 OF PERMITS.—

3 (1) IN GENERAL.—The Federal land manager
4 may modify, suspend, or revoke a permit—

5 (A) for resource, safety, or other manage-
6 ment considerations; or

7 (B) when there is a violation of a term or
8 condition of a permit issued pursuant to this
9 section.

10 (2) MANDATORY REVOCATION.—The permit
11 shall be revoked if any person working under the au-
12 thority of the permit is convicted under section 9 or
13 is assessed a civil penalty under section 10.

14 (e) AREA CLOSURES.—In order to protect paleon-
15 tological resources or other resources and to provide for
16 public safety, Federal land managers may restrict access
17 to or close areas under their jurisdiction to the collection
18 of paleontological resources.

19 **SEC. 8. CURATION OF RESOURCES.**

20 Any paleontological resource, and any data and
21 records associated with the resource, collected under a per-
22 mit, shall be deposited in an approved repository. Federal
23 land managers may enter into agreements with non-Fed-
24 eral repositories regarding the curation of these resources,
25 data, and records.

1 **SEC. 9. PROHIBITED ACTS; PENALTIES.**

2 (a) IN GENERAL.—A person may not—

3 (1) excavate, remove, damage, or otherwise
4 alter or deface or attempt to excavate, remove, dam-
5 age, or otherwise alter or deface any paleontological
6 resources located on Federal lands unless such activ-
7 ity is conducted in compliance with this Act;8 (2) exchange, transport, export, receive, or offer
9 to exchange, transport, export, or receive any pale-
10 ontological resource if such resource was excavated,
11 removed, exchanged, transported, or received from
12 Federal lands in violation of any provision, rule, reg-
13 ulation, law, ordinance, or permit in effect under
14 Federal law, including this Act; or15 (3) sell or purchase or offer to sell or purchase
16 any paleontological resource if such resource was ex-
17 cavated, removed, sold, purchased, exchanged, trans-
18 ported, or received from Federal lands.19 (b) FALSE LABELING OFFENSES.—A person may not
20 make or submit any false record, account, or label for,
21 or any false identification of, any paleontological resource
22 excavated or removed from Federal lands.

23 (c) PENALTIES.—

24 (1) IN GENERAL.—Except as provided in para-
25 graphs (2) and (3), a person who intentionally vio-
26 lates or counsels, procures, solicits, or employs an-

1 other person to violate subsection (a) or (b) shall,
2 upon conviction, be guilty of a class A misdemeanor.

3 (2) DAMAGE OVER \$1,000.—If the sum of the
4 scientific or fair market value of the paleontological
5 resources involved and the cost of restoration and
6 repair of such resources exceeds the sum of \$1,000,
7 such person shall, upon conviction, be guilty of a
8 class E felony.

9 (3) MULTIPLE OFFENSES.—In the case of a
10 second or subsequent such violation, such person
11 shall, upon conviction, be guilty of a class D felony.

12 (d) GENERAL EXCEPTION.—Nothing in subsection
13 (a) shall apply to any person with respect to any paleon-
14 tological resource which was in the lawful possession of
15 such person prior to the date of the enactment of this Act.

16 **SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULA-**
17 **TIONS OR PERMIT CONDITIONS.**

18 (a) IN GENERAL.—

19 (1) HEARING.—A person who violates any pro-
20 hibition contained in an applicable regulation or per-
21 mit issued under this Act may be assessed a penalty
22 by the Federal land manager concerned after the
23 person is given notice and opportunity for a hearing
24 with respect to the violation. Each violation shall be

1 considered a separate offense for purposes of this
2 section.

3 (2) AMOUNT OF PENALTY.—The amount of
4 such penalty assessed under paragraph (1) shall be
5 determined under regulations promulgated pursuant
6 to this Act, taking into account the following factors:

7 (A) The scientific or fair market value,
8 whichever is greater, of the paleontological re-
9 source involved.

10 (B) The cost of response, restoration, and
11 repair of the resource and the paleontological
12 site involved.

13 (C) Any other factors considered relevant
14 by the Federal land manager assessing the pen-
15 alty.

16 (3) MULTIPLE OFFENSES.—In the case of a
17 second or subsequent violation, the amount of a pen-
18 alty assessed under paragraph (2) may be double the
19 amount assessed for a violation were the first viola-
20 tion by the person.

21 (4) LIMITATION.—The amount of any penalty
22 assessed under this subsection for any one violation
23 shall not exceed an amount equal to double the cost
24 of response, restoration, and repair of resources and
25 paleontological site damage plus double the scientific

1 or fair market value of resources destroyed or not
2 recovered.

3 (5) PERMIT EXCEPTION.—No penalty shall be
4 assessed under this section for the removal of a pale-
5 ontological resource permitted in accordance with
6 this Act.

7 (b) PETITION FOR JUDICIAL REVIEW; COLLECTION
8 OF UNPAID ASSESSMENTS.—

9 (1) IN GENERAL.—Any person against whom
10 an order is issued assessing a penalty under sub-
11 section (a) may file a petition for judicial review of
12 the order with an appropriate Federal district court
13 within the 30-day period beginning on the date the
14 order making the assessment was issued. The court
15 shall hear the action on the record made before the
16 Federal land manager and shall sustain his action if
17 it is supported by substantial evidence on the record
18 considered as a whole.

19 (2) CIVIL ACTION MAY BE FILED FOR FAILURE
20 TO PAY PENALTY.—If any person fails to pay a pen-
21 alty assessed under this section—

22 (A) after the order making the assessment
23 has become final and the person has not filed
24 a petition for judicial review of the order in ac-
25 cordance with paragraph (1); or

1 (B) after a court in an action brought
2 under paragraph (1) has entered a final judg-
3 ment upholding the assessment of the penalty,
4 then the appropriate Federal land manager may re-
5 quest the Attorney General to institute a civil action
6 in a district court of the United States for any dis-
7 trict in which the person is found, resides, or trans-
8 acts business, to collect the penalty. The district
9 court shall have jurisdiction to hear and decide any
10 such action. In such action, the validity and amount
11 of such penalty shall not be subject to review.

12 (c) HEARINGS.—Hearings held during proceedings
13 instituted under subsection (a) shall be conducted in ac-
14 cordance with section 554 of title 5, United States Code.
15 The appropriate Federal land manager may issue sub-
16 poenas for the attendance and testimony of witnesses and
17 the production of relevant papers, books, and documents;
18 and administer oaths. Witnesses summoned shall be paid
19 the same fees and mileage that are paid to witnesses in
20 the courts of the United States. In the case of contumacy
21 or refusal to obey a subpoena served upon any person pur-
22 suant to this subsection, the district court of the United
23 States for any district in which the person is found, re-
24 sides, or transacts business, upon application by the
25 United States and after notice to the person, shall have

1 jurisdiction to issue an order requiring the person to ap-
2 pear and give testimony before the Federal land manager
3 or to appear and produce documents before the Federal
4 land manager, or both, and any failure to obey the order
5 of the court may be punished by the court as contempt
6 thereof.

7 (d) USE OF RECOVERED AMOUNTS.—Any penalties
8 collected under this section shall be available to the Fed-
9 eral land manager and without further congressional ac-
10 tion may be used only as follows:

11 (1) To protect, restore, or repair the paleon-
12 tological resources and sites which were the subject
13 of the action, or to acquire sites with equivalent re-
14 sources, and to protect, monitor, and study the re-
15 sources and sites. Any acquisition shall be subject to
16 any limitations contained in the organic legislation
17 for such Federal lands.

18 (2) To provide educational materials to the
19 public about paleontological resources and sites.

20 (3) As a reward in accordance with section 11
21 of this Act.

22 **SEC. 11. REWARDS; FORFEITURE.**

23 (a) REWARDS.—Upon certification of the Federal
24 land manager, the Secretary of the Treasury shall pay
25 from penalties collected under section 9 or 10 of this Act

1 an amount equal to the lesser of one-half of the penalty
2 or \$500, to any person who furnishes information which
3 leads to the finding of a civil violation, or the conviction
4 of criminal violation, with respect to which the penalty was
5 paid. If several persons provided the information, the
6 amount shall be divided among the persons. No officer or
7 employee of the United States or of any State or local
8 government who furnishes information or renders service
9 in the performance of his official duties shall be eligible
10 for payment under this subsection.

11 (b) FORFEITURE.—All paleontological resources with
12 respect to which a violation under section 9 or 10 occurred
13 and which are in the possession of any person, and all
14 vehicles and equipment of any person that were used in
15 connection with the violation, may be subject to forfeiture
16 to the United States upon—

17 (1) the person's conviction of the violation
18 under section 9;

19 (2) assessment of a civil penalty against any
20 person under section 10 with respect to the viola-
21 tion; or

22 (3) a determination by any court that the pale-
23 ontological resources, vehicles, or equipment were in-
24 volved in the violation.

1 (c) TRANSFER OF SEIZED RESOURCES.—The Fed-
2 eral land manager is authorized to transfer ownership or
3 administration of seized paleontological resources to Fed-
4 eral or non-Federal institutions to be used for educational
5 purposes.

6 **SEC. 12. CONFIDENTIALITY.**

7 Information concerning the nature and specific loca-
8 tion of a paleontological resource the collection of which
9 requires a permit under this Act or under any other provi-
10 sion of Federal law shall be withheld from the public under
11 subchapter II of chapter 5 of title 5, United States Code,
12 or under any other provision of law unless the responsible
13 Federal land manager determines that disclosure would—
14 (1) further the purposes of this Act;
15 (2) not create risk of harm to or theft or de-
16 struction of the resource or the site containing the
17 resource; and
18 (3) be in accordance with other applicable laws.

19 **SEC. 13. REGULATIONS.**

20 (a) ISSUANCE.—Not later than 2 years after the date
21 of the enactment of this Act, the Secretary of the Interior,
22 the Secretary of Agriculture, the Secretary of Defense,
23 and the Chairman of the Board of the Tennessee Valley
24 Authority, after consultation with other Federal land man-
25 agers and representatives of concerned State agencies, and

1 after public notice and hearing, shall issue such regula-
2 tions as are appropriate to carry out this Act.

3 (b) EFFECTIVE DATE.—A regulation issued pursuant
4 to subsection (a) shall not take effect until 90 days after
5 the date of issuance of the regulation.

6 **SEC. 14. SAVINGS PROVISIONS.**

7 Nothing in this Act shall be construed to—

8 (1) invalidate, modify, or impose additional re-
9 strictions on any activities permitted under the gen-
10 eral mining laws, or the mineral leasing, geothermal
11 leasing, and mineral materials disposal laws;

12 (2) apply to, or require a permit for, amateur
13 collecting of a rock, mineral, or invertebrate or plant
14 fossil that is not protected under this Act;

15 (3) affect any lands other than Federal lands or
16 affect the lawful recovery, collection, or sale of pale-
17 ontological resources from lands other than Federal
18 lands;

19 (4) alter or diminish the authority of a Federal
20 agency under any other law to provide protection for
21 paleontological resources on Federal lands in addi-
22 tion to the protection provided under this Act; or

23 (5) create any right, privilege, benefit, or enti-
24 tlement for any person who is not an officer or em-
25 ployee of the United States acting in that capacity.

- 1 No person who is not an officer or employee of the United
- 2 States acting in that capacity shall have standing to file
- 3 any civil action in a court of the United States to enforce
- 4 any provision or amendment made by this Act.

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